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OFFICE OF PETITIONS

In re Application of
Benjamin N. Eldridge et al.
Application No. 10/062,999
Filed: January 30, 2002
Attorney Docket No. 12439-0276

ON PETITION

This is a decision on the petition filed April 3, 2007, to withdraw the holding of abandonment, which is treated under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before May 27, 2003 as was required by the Notice of Allowance mailed February 24, 2003. This application therefore became abandoned on May 28, 2003. Accordingly, a Notice of Abandonment was mailed July 10, 2003.

The file record discloses that the Notice of Allowance was mailed to the address of record. However, petitioner contends that neither the Notice of Allowance nor the Notice of Allowability were received. In support, petitioner indicates that a search of the file jacket revealed that the Notices were not received and submits copies of pages from the docketing system, wherein receipt of the Notices would have been entered, had they been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance and Notice of Allowability.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance and Notice of Allowability were never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and in view thereof, the \$130.00 fee authorized in the original petition filed September 15, 2003 (which was not treated) will be credited to deposit account no. 50-0285, the account from the funds were charged.

This application is being forwarded to the Technology Center 2858 for a remailing of the Notice of Allowance and Notice of Allowability.

Telephone inquiries concerning this matter should be directed to the undersigned

Petitions Attorney at (571) 272-3212

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